

a waiver of the spacing rules, because TBN is entitled to a renewal expectancy, TBN is dispositively superior to Glendale on comparative grounds.

78. Accordingly, TBN's application for renewal of license of WHSG-TV, Monroe, Georgia, should be granted, and Glendale's application for a construction permit should be denied.

Respectfully submitted,

**TRINITY CHRISTIAN CENTER OF
SANTA ANA, INC., D/B/A TRINITY
BROADCASTING NETWORK**

By: 

Colby M. May
Its Attorney

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November 4, 1994

ATTACHMENT

**Courtesy copy of the Commission's October 18, 1994 Ruling
Denying Glendale's Request to have the Channel *63,
Montgomery, Alabama Reference Point Changed**

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

IN REPLY REFER TO:

OCT 18 1994

John J. Schauble, Esq.
Cohen and Berfield, P.C.
1129 - 20th Street, N.W.
Washington, D.C. 20036

Dear Mr. Schauble:

This is in response to your letter filed on behalf of Glendale Broadcasting Company ("GBC"), a competing applicant for UHF television Channel 63 at Monroe, Georgia, in MM Docket No. 93-156 (File No. BPCT-920228KE),¹ requesting the reference coordinates for vacant Channel *63, Montgomery, Alabama, be changed to eliminate a short spacing with GBC's pending application at coordinates 33-44-38 and 84-00-39, and to the existing licensed site of Station WHSG(TV), Channel 63, Monroe, Georgia, at coordinates 33-44-22 and 84-00-14. Trinity filed an objection to the request, to which GBC responded.

An engineering statement submitted by John J. Mullaney ("Mullaney") in support of GBC's proposal indicates that the distance between the licensed coordinates of Station WHSG(TV) and the vacant Channel *63 allotment reference coordinates at Montgomery is 262.66 kilometers (163 miles) whereas a distance of 280.8 kilometers (175 miles) is required between UHF co-channels located in Zone II. Moreover, Mullaney states that due to FAA constraints GBC was required to propose a site for Channel 63 at Monroe that is slightly closer (0.26 kilometers) to the Montgomery reference coordinates than the licensed site of Station WHSG(TV). Thus, Mullaney states that GBC was required to request a short spacing waiver in connection with its application in the comparative renewal proceeding. Further, Mullaney states that GBC is concerned that if the Montgomery reference coordinates remain unchanged, future applicants for Channel *63 at Montgomery may be constrained by a new station to the west or southwest of that community which would prevent such future applicants from meeting the minimum distance separation requirements to the Monroe, Georgia, facility. Mullaney urges that retention of the Montgomery reference coordinates would force the Commission into granting short spacing waivers to future applicants at that community, or may lead to a deletion of the allotment since no properly spaced site is possible from the existing reference coordinates. Therefore, Mullaney urges that as the purpose of reference coordinates is to protect an allotment's allowable site area until a facility is built, the Montgomery reference coordinates should be changed to eliminate the existing short-spacing with Station WHSG(FM), Monroe, Georgia, as well as GBC's application and to future applicants at Montgomery. Accordingly, Mullaney suggests a change in the reference coordinates for Channel *63 at Montgomery to those specified in the former construction permit issued to Troy State University (File No. BMPET-890901KE) to specify coordinates at 32-17-24 and 86-36-40.

While GBC speculates as to the consequences of retaining the existing coordinates for Channel *63 at Montgomery, the Commission's policy is to protect the integrity of the TV Table of Allotments, and to ensure that a vacant allotment is not rendered unusable by limiting the availability of

¹GBC's application is mutually exclusive with the renewal of license application of Trinity Christian Center of Santa Ana, Inc., d/b/a Trinity Broadcasting Network, Inc. ("Trinity") for Station WHSG(TV), Channel 63, Monroe, Georgia.

transmitter sites. Accordingly, the Commission will not change reference coordinates outside of a rule making proceeding, or initiate a proceeding solely to change reference coordinates to accommodate a proposal elsewhere.

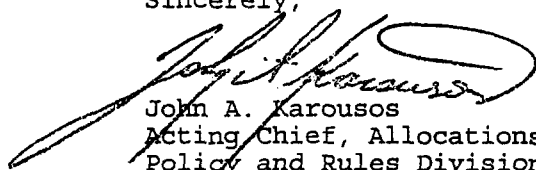
A search of the Commission's records reveals that Channel *63 was allotted to Montgomery without a site restriction. See Report and Order, MM Docket No. 86-329, 2 FCC Rcd 1179 (1987). Although the original Monroe applicant for Channel 63 specified a site at coordinates 33-42-34 and 83-50-59, that site became short spaced to the ultimate Channel *63 allotment at Montgomery. The Monroe applicant amended its application to specify use of a directional antenna at coordinates 33-44-22 and 84-00-14. Since that site was 16.7 kilometers (10.4 miles) short-spaced to the then authorized site of proposed Station WTSU-TV at Montgomery, a waiver of Section 73.610 was requested. The modification application for Station WHSG(TV) was granted November 29, 1989.

Pursuant to Section 73.208 of the Commission's Rules, every application for a TV station, and every petition for a new TV channel, must specify a transmitter site that is fully spaced to the reference coordinates for a vacant allotment. In the event an application is denied for a particular channel, the reference coordinates for the allotment remain in effect. In this instance, the Commission properly reverted to the original reference coordinates for Channel *63 at Montgomery upon the cancellation of the unbuilt construction permit for proposed Station WTSU-TV.

Since the transmitter site proposed by GBC for Channel 63 at Monroe is 262.4 kilometers from the reference coordinates for Channel *63 at Montgomery, whereas a minimum distance separation of 280.8 kilometers is required between UHF co-channels located in Zone II, one of the designated issues in the comparative hearing in MM Docket No. 93-156 with respect to GBC's application seeks to determine whether circumstances exist to warrant a waiver of Section 73.610 of the Commission's Rules. Therefore, although this office cannot entertain your request, it appears that a remedy may be available to GBC to resolve its concern in the comparative hearing context in MM Docket No. 93-156.

Based upon the above, GBC's request to change the reference coordinates for Channel *63 at Montgomery, Alabama, is unacceptable for consideration.

Sincerely,



John A. Karousos
Acting Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

cc: Colby M. May, Esq.

CERTIFICATE OF SERVICE

I, Glinda M. Corbin, a paralegal in the law offices of Colby M. May, hereby certify that I have caused to be hand delivered this 4th day of November 1994 a copy of the foregoing **REPLY FINDINGS OF FACT AND CONCLUSIONS OF LAW** to the following:

The Honorable Joseph Chackin
Administrative Law Judge
Federal Communications Commission
2000 L Street, N.W., Room 226
Washington, D.C. 20554

Robert Zauner, Esq.
Gary Schonman, Esq.
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(Counsel for Glendale Broadcasting Company)

By: Glinda M. Corbin
Glinda M. Corbin

✓ Sent First Class Mail